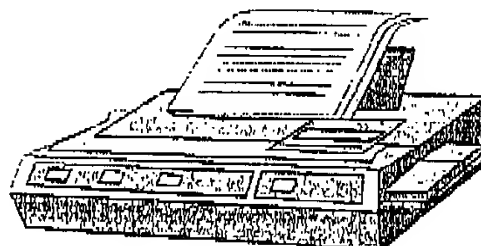


CONTROL NUMBER: _____

GIBBONS, DEL DEO, DOLAN, GRIFFINGER & VECCHIONE

A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
ONE RIVERFRONT PLAZA
NEWARK, N.J. 07102-5497



(973) 596-4925
TELECOPY (973) 639-6337
CABLE-TELEX: 138154
TELECOPY REQUEST FORM

TELECOPY NUMBER: 1-703-746-5038 CONTACT NUMBER: _____

PLEASE DELIVER THE FOLLOWING PAGES TO:

NAME: Examiner C. Kim
FROM: Tracie Hibbits For William Epstein
RE: 104610 - 50029 DATE: 12/30/2003
Client Matter

TOTAL NUMBER OF PAGES TRANSMITTED, INCLUDING THIS SHEET: 3
TRANSMITTED BY: _____ TIME OF TRANSMISSION: _____

MESSAGE:

Per our telephone conversation for Serial No. 09/760,949.

CONFIDENTIALITY NOTE

The documents accompanying this telecopy transmission contains information from the law firm of Gibbons, Del Deo, Dolan, Griffinger & Vecchione which is confidential and/or legally privileged. The information is intended only for the use of the individual or entity named on this transmission sheet. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or the taking of any action in reliance on the contents of this telecopied information is strictly prohibited, and that the documents should be returned to this firm immediately. In this regard, if you have received this telecopy in error, please notify us by telephone immediately so that we can arrange for the return of the original documents to us at no cost to you.

IF YOU DO NOT RECEIVE ALL OF THE PAGES INDICATED ABOVE, PLEASE CALL US AS SOON AS POSSIBLE.

#211584 v1
099998-00014

PATENT
104610-50029 (20532)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Patent Application of:
Kohchi et al.

Serial No. : 09/760,949
Filed : January 16, 2001

Title : AEROTHRICIN DERIVATIVES

Art Unit : 1653
Examiner : C. Kam

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

**Terminal Disclaimer To Obviate A Double Patenting
Rejection Over A Pending Second Application**

Basilea Pharmaceutica AG, a corporation of Switzerland, having a principal place of business at 11 Neuhofweg, CH-4102, Binningen, Switzerland, the owner of 100% interest in the instant application as assignee of the entire right, title and interest in and to the said application and in and to any and all Letters Patent of the United States which may issue from said application, by virtue of an Assignment by Hoffmann-La Roche Inc. to Basilea Pharmaceutica AG, recorded in the United States Patent and Trademark Office on May 10, 2001 at reel 011783, frame 0988, hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173, as shortened by any terminal disclaimer filed prior to the grant of any patent granted on pending second Application Number 09/765,846, filed January 19, 2001, of any patent on the pending second application. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the second application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of any patent granted on the second application, as shortened by any terminal disclaimer filed prior to the patent grant, in the event that any such granted patent: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer filed prior to its grant.

#717958 v1
104610-50029

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney or agent of record.

By: William H. Epstein Oct 28, 2003
Signature Date
Registration No. : 20,008

- ☒ Terminal Disclaimer Fee under 37 CFR 1.20(d) included.